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## LOK SABHA

The following Bills were introduced in the Lok Sabha on 10th December, 1954:—

BILL No. 19 OF 1954

*A Bill further to amend the Electricity (Supply) Act, 1948.*

BE it enacted by Parliament as follows:—

**1. Short title.**—This Act may be called the Electricity (Supply) Amendment Act, 19 .

**2. Amendment of section 77, Act LIV of 1948.**—In section 77 of the Electricity (Supply) Act, 1948 (hereinafter referred to as the principal Act),—

(a) after sub-section 1, the following new sub-section shall be inserted, namely:—

“(1A) if any licensee or other person pays any bonus except as permitted by sub-clause (xiii) of clause (b) of sub-paragraph (2) of paragraph XVII of the Sixth Schedule, he shall be punishable with imprisonment which may extend to three years or with fine which may extend to fifty thousand rupees or with both.”; and

(b) in sub-section (3) the following shall be added at the end, namely:—

“or by the President or Secretary of a registered Trade Union of the employees of the licensee or other persons against whom the complaint is made.

*Explanation.*—Where the complaint is against a licensee and also some other person or persons jointly, it shall be a sufficient compliance with this sub-section if the complainant is the President or Secretary of a registered Trade Union of the employees either of the licensee or of any other person complained against.”

**3. Amendment of the Sixth Schedule, Act LIV of 1948.**—In paragraph XVII of the Sixth Schedule to the principal Act, after sub-clause (xii) of clause (b) of sub-paragraph (2) the following new sub-clause shall be inserted, and shall be deemed always to have been so inserted, namely:—

“(xiii) All expenditure incurred on account of payment of bonus to employees earning less than one thousand rupees a month exclusive of such bonus.”

#### STATEMENT OF OBJECTS AND REASONS

The Sixth Schedule to the Electricity (Supply) Act, 1948 enables every Electricity Supply concern to earn what is therein called “clear profit” which is to be not more than 30 per cent. in excess of what is therein called the “reasonable return”. Paragraph XVII(2) of the Sixth Schedule provides that “clear profit” is to be calculated by deducting the items of expenditure and special appropriations mentioned in clauses (b) & (c) of sub-paragraph (2) from the items of income mentioned in clause (a) thereof. The Labour Appellate Tribunal in the case of the Bombay Suburban Electricity Supply Ltd. decided that bonus could not be paid to workmen out of the reasonable return nor could it be deducted as an expenditure allowable under paragraph XVII (2)(b) in calculating clear profit. Taking advantage of this decision many Electricity Supply concerns, including the British owned Calcutta Electric Supply Corporation, which make huge profits of about five thousand rupees per worker have refused to pay legitimate bonus to their workers. To remedy this situation it is proposed to amend paragraph XVII (2)(b) with a view to including bonus as an item of allowable expenditure in calculating clear profit. This amendment has been made retrospective in order to establish the claims of the workmen to bonus which was their legitimate due in recent years. At the same time as it is necessary to provide against financial denudation of this country through payment of large amounts to foreign employees in the name of bonus, the allowable expenditure has been restricted to bonus paid to employees earning less than one thousand rupees a month exclusive of such bonus, and section 77 has been amended to penalise the payment of bonus to employees earning one thousand rupees or more.

It is also not a rare experience that State Governments often withhold sanction or authority to prosecute employers guilty of offences. So it is proposed to amend section 77(3) to enable courts to take cognizance of offences against this Act on the complaint of the President or Secretary of a registered Trade Union of the employees of the person or concern guilty of such offences.

RENU CHAKRAVARTTY

#### BILL NO. 50 OF 1954

*A Bill further to amend the Code of Criminal Procedure, 1898.*

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1954.

**2. Insertion of new section 109A, Act V of 1898.**—After section 109 of the Code of Criminal Procedure, 1898, the following new section shall be inserted, namely:—

“109A.—*Options to the detained or arrested person.*—Notwithstanding anything contained in section 109, the magistrate may, in the case of any person arrested or detained by the police for,

- (i) concealing his presence with a view to commit an offence;
- (ii) having no ostensible means of subsistence; or
- (iii) failing to give a satisfactory account of himself,

give to the person arrested or detained as aforesaid an option either to quit the local limits of such magistrate's jurisdiction within twenty-four hours or if the person arrested or detained insists upon the fundamental rights under sub-clauses (d) and (e) of clause (1) of article 19 of the Constitution, require him to furnish a bail bond with one surety for a sum not exceeding five hundred rupees and until he is enabled to furnish such bail bond and surety he may be sent to jail to be detained there as detenu. In case, the said detenu furnishes bail bond within a period of three months, he may be set at liberty and the magistrate may exempt him from personal attendance and allow him to appear by a pleader. If, however, the detenu fails to furnish security, he may be treated as Civil prisoner for a period not exceeding nine months.”

#### STATEMENT OF OBJECTS AND REASONS

The existing provision of Section 109 of the Code of Criminal Procedure, 1898 is not in keeping with the fundamental rights conferred on a citizen under sub-clauses (d) and (e) of clause (1) of article 19 of the Constitution. Furnishing security or bond in a place far away from one's residence is not easy for a common man. The existing provision of Section 109 of the Code of Criminal Procedure, 1898 is also inconsistent with the principle of article 20 of the Constitution, inasmuch as a person may be on pilgrimage or may be staying in a hill station to recoup his health, while he is liable to detention or to furnish bond with sureties forthwith. Hence this Bill.

N. B. KHARE.

BILL No. 49 OF 1954

*A Bill further to amend the Army Act, 1950.*

BE it enacted by Parliament in the Fifth year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Army (Amendment) Act, 19 .

**2. Insertion of new Section 142A, Act XLVI of 1950.**—After section 142 of the Army Act, 1950 (hereinafter referred to as the said Act) the following new section shall be inserted, namely:—

“142A. *Procedure for making complaint to the President etc.*—Any letter, return or other document respecting the dismissal or

discharge of any person from any portion of the Regular Army, if not purported to be signed by or on behalf of the Central Government, or the Commander-in-Chief or by a prescribed authority and if produced, used or referred to in any proceedings before any administrative, accounts or audit authority and if reliance has, by such administrative, accounts or audit authority, been placed on such letter, return or other documents in deciding any question relating to one's having been or having not been duly dismissed or discharged from any portion of the Regular Army so as to cease or not to cease to be subject to the said Act within the purview of clause (2) of section 2, then any person affected by such decision may make a complaint to the President and Supreme Commander or to an authority prescribed by him in this behalf, to deem such letter, return or other documents so relied on to be false evidence and the President or the authority prescribed may order the person who produced the false evidence or caused it to be produced, or who used or referred to it *suo motu* to show cause why he should not be ordered, to be dismissed from the service for giving or using false evidence as the case may be and if the explanation of such a person is not satisfactory, the President and Supreme Commander or the authority, prescribed in this behalf, may order his dismissal from the service, forfeiting all arrears of his pay and allowances out of which to make good the loss occasioned to the person affected by the giving and using of such false evidence."

**3. Complaint to the High Courts.**—Any person affected by the false evidence mentioned in section 2, after waiting for the order of the President for a period not longer than three months, may make a complaint to the High Court in whose jurisdiction the incident occurred and such High Court shall have jurisdiction to try for giving or using false evidence against such person without insisting on the production of sanction contemplated by sections 195 and 197 of the Code of Criminal Procedure, 1898.

### STATEMENT OF OBJECTS AND REASONS

There is no remedy in the Army Act, 1950 against the conscious use of evidence of which Court cannot take judicial notice. Those who are interested in the use of such evidence have evolved a doctrine that section 142 of the Army Act, 1950 or section 57 of the Indian Army Act, 1911 have no application in relation to proceedings other than Court Martial proceedings. The result is that a tendency to violate the laws of evidence has grown to an appreciable extent. Hence this Bill.

N. B. KHARE,

M. N. KAUL,  
Secretary.